

SUBCHAPTER C—FIRE PREVENTION AND CONTROL

PART 150—PUBLIC SAFETY AWARDS TO PUBLIC SAFETY OFFICERS

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AUTHORITY: Federal Fire Prevention and Control Act of 1974, sec. 15, 15 U.S.C. 2214; Reorg. Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329, and E.O. 12127, dated Mar. 31, 1979, 3 CFR, 1979 Comp., p. 376.

SOURCE: 49 FR 39845, Oct. 11, 1984, unless otherwise noted.

§ 150.1 Background and purpose.

The regulations in this part are issued under the authority of the Federal Fire Prevention and Control Act of 1974 (the Act), 15 U.S.C. 2201 *et seq.* The Act establishes two classes of honorary awards for public safety officers and directs the issuance of the necessary joint regulations by the Director of the Federal Emergency Management Agency (FEMA) and the Attorney General. The functions of the Secretary of Commerce were transferred by Reorganization Plan No. 3 of 1978 to the Director, FEMA. Since initial passage of the Act, civil defense functions which then were delegated to the Secretary of Defense have been delegated to the Director, FEMA. Section 15 of the Act has been amended to delete the Secretary of Defense from participating in the granting of awards. See Public Law 98-241, 98 Stat. 95, 96 (1984). The Director, FEMA, and the Attorney General are issuing this regulation to implement the statutory provisions for FEMA and the Department of Justice.

§ 150.2 Definitions.

Civil defense officer (or member of a recognized civil defense or emergency preparedness organization) means any individual who is assigned to and is performing the assigned tasks of the

unit or organization which has been given a mission under the direction or operational control of a Civil Defense or Emergency Preparedness Director/Coordinator in accordance with a Federal, State or local emergency plan and sanctioned by the government concerned. This also includes emergency management officers. This includes volunteers and paid employees for any governmental entity.

Distinguished Public Safety Service Award means the *Secretary's Award for Distinguished Public Safety Service*, presented by either the Attorney General or the Director of FEMA to public safety officers for distinguished service in the field of public safety.

FEMA means the Federal Emergency Management Agency.

Firefighter means a member, regardless of rank or duties, of any organization (including such Federal organizations) in any State consisting of personnel, apparatus, and equipment which has as its purpose protecting property and maintaining the safety and welfare of the public from the dangers of fire. This term includes volunteer or paid employees. The location of any such organization may include, but is not limited to, a Federal installation, a State, city, town, borough, parish, county, fire district, rural fire district or other special district.

Joint Board means the Joint Public Safety Awards Board established by the Director of the Federal Emergency Management Agency and the Attorney General to carry out the purposes of the Federal Fire Prevention and Control Act of 1974.

Law enforcement officer means a person involved in the control or reduction of crime and juvenile delinquency or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and court officers, and Federal civilian officers in such capacities.

Nominating official means the head of a Federal government department or agency, or his delegatee(s), the governor or other head of a State, or the chief executive or executives of any

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general governmental unit within any State.

President's Award means the President's Award for Outstanding Public Safety Service, presented by the President of the United States to public safety officers for extraordinary valor in the line of duty or for outstanding contributions to public safety.

Public safety officer means a person serving a public agency, with or without compensation, as a firefighter, a civil defense officer (or member of a recognized civil defense or emergency preparedness organization), or a law enforcement officer, including a corrections or court officer.

State means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands and any other territory or possession of the United States.

§ 150.3 Nomination process.

(a) The Nominating Officials nominating Firefighters and Civil Defense Officers shall submit their nominations for the President's Award or Distinguished Public Safety Service Award to the Executive Secretary, Joint Public Safety Awards Board, National Emergency Training Center, Emmitsburg, MD 21727. Copies of all nominations shall also be forwarded, depending on the category of the nominee, as follows:

(1) *Firefighter*:

FEMA, Attention: Superintendent, National Fire Academy, Emmitsburg, MD 21727

(2) *Civil defense officer (or member of a recognized civil defense or emergency preparedness organization)*:

FEMA, Attention: Superintendent, Emergency Management Institute, Emmitsburg, MD 21727

(b) The Nominating Officials nominating law enforcement, corrections or court officers shall submit their nominations for the President's Award or Distinguished Public Safety Service Awards to: Assistant Attorney General for Administration, U.S. Department of Justice, Washington, DC 20530.

(c) All nominations shall be submitted in writing in accordance with

the requirements prescribed in this section and §150.4 at the earliest practicable date after the performance of the act or acts for which the nomination is made. Nominations for each year shall be made before November 15; any received thereafter will be considered as having been made for the following year. However, for the year 1983, nominations may be made by February 28, 1985.

(d) Nominations for the President's Award or the Distinguished Public Safety Service Award should include the name of the candidate, his/her position, title and address, and public agency served, the locale where the candidate performs his/her duties, the name, address and telephone number of the nominating official, a summary describing the outstanding contribution, distinguished service or extraordinary valor, and the dates relating thereto. The description should be sufficiently concise and specific to justify the request for recognition of the public safety officer through the presentation of either of the awards. Copies of any published factual accounts of the nominee's accomplishment should also be attached when available.

(e) An annual invitation shall be issued by the Joint Board for nominations for the President's Award and, on behalf of the Attorney General and the Director of FEMA, for the Distinguished Public Safety Service Award. The invitation shall be issued by letter or by notice in appropriate publications of interest to the public safety community. However, nominating officials need not wait for such invitation but may nominate at the most appropriate time in accordance with the other provisions of this part. Approved by the Office of Management and Budget under Control No. 3067-0150.

[49 FR 39845, Oct. 11, 1984, as amended at 50 FR 3350, Jan. 24, 1985]

§ 150.4 Nomination and selection criteria.

(a) Nominations for the President's Award of the Distinguished Public Safety Service Award shall be made on the basis of, and in conformity with, the following uniform criteria.

(1) *President's Award*. Documentation accompanying the nomination for this

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Award must indicate not only that the nominee unquestionably meets the standards established for the Distinguished Public Safety Service Award (see paragraph (a)(2) of this section), but also deserves greater public recognition because he/she has demonstrated unique qualities of courage, imagination or ability, which have resulted in outstanding contributions to the public safety.

(2) *Distinguished Public Safety Service Award.* Nomination for this award shall clearly show that the public safety officer's qualifying service or act is marked by courage, imagination or ability or has resulted in a significant contribution to the public safety accomplished through an originality of effort which far exceeds the expected quality of performance of the normal duties assigned to the nominee.

(b) A nomination shall specify whether it is being submitted for the President's Award or the Distinguished Public Safety Award.

§ 150.5 Joint Public Safety Awards Board.

(a) A Joint Public Safety Awards Board (Joint Board) is hereby established to fulfill the responsibilities of the Director of FEMA and the Attorney General by administering the process of nomination for the President's Award and by participating in the selection process with the Executive Office of the President. The Joint Board shall consist of ten representatives who are Federal employees and are of appropriate rank (at or equivalent to grades GM-14 or above). Five persons shall be named by and represent the Director of FEMA, and five persons shall be named by and represent the Attorney General. The representatives serving on the Joint Board shall select one of their number to act as the chairperson.

(b) Representatives on the Joint Board shall serve in addition to their regular duties and without additional compensation. Consistent with the requirements of this part, the members of the Joint Board shall establish the procedures by which the selections for the President's Award shall be made to assure the timely presentation of these awards.

(c) A National Emergency Training Center employee shall act as Executive Secretary of the Joint Board. The Executive Secretary shall perform such functions as are appropriate to the Board's responsibilities, including the receipt of all nominations and the communication of nomination information, for the purpose of receiving comments thereon, from members of the public safety community pursuant to § 150.5(e). The Executive Secretary shall be appointed by the Associate Director, Training and Fire Programs of FEMA.

(d) The Joint Board shall review the nominations for the President's Award and shall recommend to the Director, FEMA, and the Attorney General by February 1 of each year, those nominees determined by it to merit consideration for the President's Award together with reasons therefor. The Director and the Attorney General shall then recommend to the President those nominees determined by them to merit the President's Award, together with the reasons therefor. Recommendations for 1983 shall be submitted on or before March 29, 1985.

(e) The Joint Board may request that persons representing a cross-section of the national public safety community comment upon nominations made to the Board for the President's Award. Both the request for comments and the comments themselves shall be made in writing.

[49 FR 39845, Oct. 11, 1984, as amended at 50 FR 3350, Jan. 24, 1985]

§ 150.6 Design and procurement of awards.

(a) The Joint Board shall consult with the Department of the Treasury and the Executive Office of the President in regard to the design and procurement of the appropriate citations and medal for the President's Award in accordance with applicable laws and regulations.

(b) Insofar as practicable, the designs for Distinguished Public Safety Service Awards of FEMA and the Department of Justice shall be coordinate so as to avoid distinctly different recognition of the various public safety officers.

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§ 150.7 Selection process.

(a) *President's Award.* Nominations for the President's Award shall be reviewed, and winners selected by the President (or his designee) in accordance with the requirements of §150.3, the criteria in §150.4(a)(1), and the procedures of §150.5.

(b) *Distinguished Public Safety Service Award.* Upon receipt of nominations for this Award, the Director of FEMA or the Attorney General shall cause an evaluation and selection of the nominees to be made in accordance with the requirements of §150.3 and the criteria prescribed in §150.4(a)(2). In reviewing nominations, the Attorney General or the Director of FEMA may request that persons representing the relevant segment of the national public safety community comment upon the nomination and accompanying documentation. Both the request for comments and the comments themselves shall be made in writing.

(c) Individuals nominated for the President's Award who are considered not to meet the criteria for the Award by the Joint Board or who are not recommended to or selected by the President shall be automatically considered by the appropriate authority for nomination for the Distinguished Public Safety Service Award.

(d) Individuals nominated for the Distinguished Public Safety Service Award may be considered by the Joint Board for the President's Award if the Director of FEMA or the Attorney General determines that consideration for the President's Award is merited.

§ 150.8 Presentation of awards.

(a) Presentation of the President's Award shall be made at such time, place and circumstances as the Executive Office of the President directs. There shall not be more than twelve President's Awards given out during any calendar year.

(b) Presentation of the Distinguished Public Safety Service Award shall be made by the Attorney General or the Director of FEMA or a designee at such time, place and circumstances as the Director of FEMA or the Attorney General determines. There is no limit on the number of these awards made during any calendar year.

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§ 150.9 Funding.

(a) *President's Award.* The costs involved in designing and striking the medal to be presented in conjunction with the President's Award shall be prorated among the agencies concerned. The cost of producing the medal and printing the certificate shall be borne by FEMA if the recipient is a firefighter or a civil defense officer. If the award recipient is a law enforcement officer, then such cost shall be borne by the Department of Justice.

(b) *Distinguished Public Safety Service Award.* All expenses in connection with this Award shall be borne by the appropriate Agency.

§ 150.10 Date of submission of nominations.

Nominations may only be submitted for acts, services, or contributions occurring within two years preceding the November 15 cut-off date described in §150.3(c) of this part. However, nominations submitted prior to the February 28, 1985 cut-off date may be made for acts, services or contributions occurring on or after October 29, 1972 (two years before the effective date of the Act).

[50 FR 3350, Jan. 24, 1985]

PART 151—REIMBURSEMENT FOR COSTS OF FIREFIGHTING ON FEDERAL PROPERTY

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AUTHORITY: Secs. 11 and 21(b)(5), Federal Fire Prevention and Control Act of 1974 (15

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U.S.C. 2210 and 2218(b)(5)); Reorganization Plan No. 3 of 1978 (3 CFR, 1978 Comp., p. 379) and E.O. 12127, dated Mar. 31, 1979 (3 CFR, 1979 Comp., p. 376).

SOURCE: 49 FR 5929, Feb. 16, 1984, unless otherwise noted.

Subpart A—Purpose, Scope, Definitions

§ 151.01 Purpose.

Section 11 of the Federal Fire Prevention and Control Act of 1974, provides that “each fire service that engages in the fighting of a fire on property which is under the jurisdiction of the United States may file a claim with the Director of the Federal Emergency Management Agency for the amount of direct expenses and direct losses incurred by such fire service as a result of fighting such fire.” This part, implements section 11 of the Act and governs the submission, determination, and appeal of claims under section 11.

§ 151.02 Scope.

Fire services, in any State, may file claims for reimbursement under section 11 and this part for the direct expenses and losses which are additional firefighting costs over and above normal operating costs incurred while fighting a fire on property which is under the jurisdiction of the United States. Section 11 requires that certain payments be deducted from those costs and that the Treasury Department will ordinarily pay the amount resulting from the application of that formula. Where the United States has entered into a contract (which is not a mutual aid agreement, defined in § 151.03) for the provision of fire protection, and it is the intent of the parties that reimbursement under section 11 is unavailable, this intent will normally govern. Where a mutual aid agreement is in effect between the claimant and an agency of the United States for the property upon which the fire occurred, reimbursement will be available in otherwise proper situations. However, any payments (including the value of services) rendered under the agreement during the term of the agreement (or the Federal fiscal year in which the fire occurred, if no term is discernible)

shall be deducted from the costs claimed, pursuant to § 151.12.

§ 151.03 Definitions.

(a) *The Act* means the Federal Fire Prevention and Control Act of 1974, 15 U.S.C. 2201 *et seq.*

(b) *Additional firefighting costs over and above normal operating costs* means reasonable and authorized (or ratified by a responsible Federal official) costs ordinarily associated with the function of firefighting as performed by a fire service. Such costs would normally arise out of response of personnel and apparatus to the site of the fire, search and rescue, exposure protection, fire containment, ventilation, salvage, extinguishment, overhaul, and preparation of the equipment for further use. This would also include costs associated with emergency medical services to the extent normally rendered by a fire service in connection with a fire. Not included are administrative expenses, costs of employee benefits, insurance, disability, death, litigation or health care, and the costs associated with processing claims under section 11 of the Act and this part.

(c) *Director* means the Director of the Federal Emergency Management Agency, or his/her designee.

(d) *Claimant* means a fire service as defined in paragraph (g) of this section.

(e) *Direct expenses and losses* means expenses and losses which would not have been incurred had not the fire in question taken place. This includes salaries for specially employed personnel, overtime pay, the cost of supplies expended, and the depreciated value of equipment destroyed or damaged. It does not include such costs as the ordinary wages of firefighters, overhead costs, or depreciation (if based on other than hours of use during fires). Expenses as defined herein would normally be incurred after the first call or alarm and would normally cease upon the first of the following: Return to station, report in-service and ready for further operations, or commence response to another incident.

(f) *Fire* means any instance of destructive or uncontrolled burning, including scorch burns and explosions of combustible dusts or solids, flammable liquids, and gases. The definition does

not include the following except where they cause fire or occur as a consequence of fire: Lightning or electrical discharge, explosion of steam boilers, hot water tanks, or other pressure vessels, explosions of ammunition or other detonating materials, overheating, mechanical failures, or breakdown of electrical equipment in power transmission facilities, and accidents involving ships, aircraft, or other vehicles. Not included in this definition are any costs associated with false alarms, regardless of cause.

(g) *Fire service* means any organization in any State consisting of personnel, apparatus, and equipment which has as its purpose protecting property and maintaining the safety and welfare of the public from the dangers of fire, including a private fire-fighting brigade. The personnel of any such organization may be paid employees or unpaid volunteers or any combination thereof. The location of any such organization and its responsibility for extinguishment and suppression of fires may include, but need not be limited to, a State, city, town, borough, parish, county, fire district, fire protection district, rural fire district, or other special district.

(h) *Mutual aid agreement* means any reciprocal agreement whether written or oral between a Federal agency and the claimant fire service, or its parent jurisdiction, for the purpose of providing fire protection for the property of the United States upon which the fire which gave rise to the claim occurred and for other property for which the claimant normally provides fire protection. Such agreement must be primarily one of service rendered for service, or must be entered into under 42 U.S.C. 1856 through 1856d. Not included are all other agreements and contracts, particularly those in which the intent of the parties is that the United States pays for fire protection.

(i) *FEMA* means the Federal Emergency Management Agency.

(j) *Over and above normal operating expenses* means costs, losses and expenses which are not ordinarily and necessarily associated with the maintenance, administration, and day-to-day operations of a fire service and which

would not have been incurred absent the fire out of which the claim arises.

(k) *Payments to the fire service or its parent jurisdiction, including taxes or payments in lieu of taxes, the United States has made for the support of fire services on the property in question* means any Federal monies, or the value of services, including those made available through categorical or block grants, contracts, mutual aid agreements, taxes, and payments in lieu of taxes which the United States has paid to the fire service or its parent jurisdiction for fire protection and fire-fighting services. Such payments will be determined on the basis of the term of the arrangement, or if no such term is discernible, on the basis of the Federal fiscal year in which the fire occurred.

(l) *Property which is under the jurisdiction of the United States* means real property and Federal improvements thereon and appurtenances thereto in which the United States holds legal fee simple title. This excludes Federal leasehold interests. This likewise excludes Federal personal property on land in which the United States does not hold fee simple title.

(m) *State* means any State of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, The Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

Subpart B—Submission, Determination, Appeal

§ 151.11 Submission of claims.

Any fire service in any State which believes it has a claim(s) cognizable under section 11 shall submit its claim(s) in writing within 90 days of the occurrence of the fire(s) for which a claim(s) is made. If the fire is of such duration that the claimant desires to submit a claim before its conclusion, it may do so, but only for the eligible costs actually incurred to date. Additional claims may be filed for costs

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later incurred. Claims shall be submitted to the Director, FEMA, Washington, DC, 20472. Each claim shall include the following information:

(a) Name, address, jurisdiction and nature (volunteer, private, municipal, etc.) of claimant's fire service organization;

(b) Name, title, address and telephone number of individual authorized by the claimant fire service to make this claim in its behalf and his/her certification as to the accuracy of the information provided;

(c) Name and telephone number of Federal employee familiar with the facts of the event and the name and address of the Federal agency having jurisdiction over the property on which the fire occurred;

(d) Proof of authority to fight the fire (source of alarm, whether fire service was requested by responsible Federal official or whether such an official accepted the assistance when offered);

(e) Personnel and equipment committed to fighting of fire (type of equipment and number of items); and an itemized list of direct expenses (e.g., hours of equipment operation, fuel costs, consumables, overtime pay and wages for any specially hired personnel) and direct losses (e.g., damaged or destroyed equipment, to include purchase cost, estimate of the cost of repairs, statement of depreciated value immediately preceding and subsequent to the damage or destruction and the extent of insurance coverage) actually incurred in fighting the fire. A statement should be included explaining why each such expense or loss is considered by the claimant not be a normal operating cost, or to be in excess of normal operating costs;

(f) Copy of fire report which includes the location of the fire, a description of the property burned, the time of alarm, etc.;

(g) Such other information or documentation as the Director considers relevant to those considerations to be made in determining the amount authorized for payment, as set forth in § 151.12 of these regulations;

(h) Source and amount of any payments received or to be received for the fiscal year in which the fire occurred, including taxes or payments in lieu of

taxes and including all monies received or receivable from the United States through any program or agreement including categorical or block grants, and contracts, by the claimant fire service or its parent jurisdiction for the support of fire services on the property on which the fire occurred. If this information is available when the claim is submitted, it should accompany the claim. If it is not, the information should be submitted as soon as practicable, but no later than 15 days after the end of the Federal fiscal year in which the fire occurred.

(Approved by Office of Management and Budget under control number 3067-0141)

§ 151.12 Determination of amount authorized for payment.

(a) The Director shall determine the amount to be paid on a claim (subject to payment by the Department of the Treasury). The amount to be paid is the total of eligible expenses, costs and losses under paragraph (a)(1) of this section which exceeds the amount of payments under paragraph (a)(2) of this section. The Director shall establish the reimbursable amount by determining:

(1) The extent to which the fire service incurred additional firefighting costs, over and above its normal operating costs, in connection with the fire which is the subject of the claim, i.e., the "amount of costs"; and

(2) What payments, if any, including taxes or payments in lieu of taxes, the fire service or its parent jurisdiction has received from the United States for the support of fire services on the property on which the fire occurred.

The reimbursable amount is the amount, if any, by which the amount of costs, determined under paragraph (a)(1) of this section exceeds the amount of payments determined under paragraph (a)(2) of this section. Where more than one claim is filed the aggregate reimbursable amount is the amount by which the total amount of costs, determined under paragraph (a)(1) of this section exceed the amount of Federal payments (in the case of a mutual aid agreement—its term or if none is determinable, the Federal fiscal year) determined under paragraph (a)(2) of this section.

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(b) The Director will first determine the costs as contemplated in paragraph (a)(1) of this section. The Director will then notify the claimant as to that amount. The claimant must indicate within 30 days its acceptance or rejection of that amount.

(1) If the determination is accepted by the claimant, this will be the final and conclusive determination of the amount of costs by the claimant in conjunction with the fire for which the claims are submitted.

(2) If the claimant rejects this amount, it must notify the Director, within 30 days, of its reasons for its rejection. Upon receipt of notification of rejection, the Director shall reconsider his determination and notify the claimant of the results of the reconsideration. The amount determined on reconsideration will constitute the costs to be used by the Director in determining the reimbursable amount.

(c) Upon receipt of documentation from the claimant on the amount of payments the Federal Government has made for the support of fire services on the property in question, the Director will, following such verification or investigation as the Director may deem appropriate, calculate the full amount to be reimbursed under the section 11 formula as set forth in § 151.12(a). This calculation of the reimbursable amount is based upon the costs determined pursuant to § 151.12(b) and the documentation of Federal payments that the claimant submitted.

(d) The Director's determination of the reimbursable amount will be sent to the Secretary of the Treasury. The Secretary of the Treasury shall, upon receipt of the claim and determination made under § 151.12 (a), (b), and (c), determine the amount authorized for payment, which shall be the amount actually available for payment from any monies in the Treasury not otherwise appropriated but subject to reimbursement (from any appropriations which may be available or which may be made available for the purpose) by the Federal department or agency under whose jurisdiction the fire occurred. This shall be a sum no greater, although it may be less, than the reimbursable amount determined by the Di-

rector, FEMA, with respect to the claim under § 151.12 (a), (b) and (c).

(e) Upon receipt of written notification from the claimant of its intention to accept the amount authorized as full settlement of the claim, accompanied by a properly executed document of release, the Director will forward the claim, a copy of the Director's determination and the claimant's document of release to the Secretary of the Treasury for payment of the claim in the amount authorized.

(f) Subject to the discovery of additional material evidence, the Director may reconsider any determination in this section, whether or not made as his final determination.

[49 FR 5929, Feb. 16, 1984, as amended at 49 FR 38119, Sept. 27, 1984]

§ 151.13 Reconsideration of amount authorized for payment.

(a) If the claimant elects to protest the amount authorized for payment, after the applicable procedures of § 151.12 have been followed, it must within 30 days of receipt of notification of the amount authorized notify the Director in writing of its objections and set forth the reasons why the Director should reconsider the determination. The Director will upon notice of protest and receipt of additional evidence reconsider the determination of the amount of Federal payments under § 151.12(a)(2) but not the determination of the amount of costs under § 151.12(a)(1). The Director shall cause a reconsideration by the Secretary of the Treasury of the amount actually available and authorized for payment by the Treasury. The Director, upon receipt of the Secretary of the Treasury's reconsidered determination, will notify the claimant in writing of the amount authorized, upon reconsideration, for payment in full settlement of the claim.

(b) If the claimant elects to accept the amount authorized, upon reconsideration, for payment in full settlement of its claims, it must within 30 days (or a longer period of time acceptable to the Director) of its receipt of that determination notify the Director of its acceptance in writing accompanied by a properly executed document of release. Upon receipt of such notice and document of release, the Director will

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forward the claim, a copy of the Director's final determination, and the claimant's document of release to the Secretary of the Treasury for payment of the claim in the amount of final authorization.

§ 151.14 Adjudication.

If the claimant, after written notice by the Director of the amount authorized for payment in full settlement of the claim and after all applicable procedures of §§ 151.12 and 151.13 have been followed elects to dispute the amount authorized, it may then initiate action in the United States Claims Court, which shall have jurisdiction to adjudicate the claim and enter judgment in accordance with section 11(d) of the Act.

Subpart C—Administration, Penalties

§ 151.21 [Reserved]

§ 151.22 Audits.

At the discretion of the Director, all claims submitted under section 11 of the Act and all records of the claimant will be subject to audit by the Director or his/her designee. In addition, the Comptroller General of the United States or his/her designee shall have access to all books and records of all claimants making claims under section 11.

§ 151.23 Penalties.

Claimant's officials or others who provide information or documentation under this part are subject to, among other laws, the criminal penalties of Title 18 of the United States Code, sections 287 and 1001, which punish the submission of false, fictitious or fraudulent claims and the making of false, fictitious or fraudulent statements and which provide for a fine of not more than \$10,000 or imprisonment for not more than five years, or both. For such a violation, the person is likewise subject to the civil penalties set out in 31 U.S.C. 3729 and 3730.

PART 152—ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM

Sec.

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AUTHORITY: 15 U.S.C. 2201 *et seq.*; Pub.L. 107-73, 115 Stat. 688.

SOURCE: 67 FR 9148, Feb. 27, 2002, unless otherwise noted.

§ 152.1 Purpose and eligible uses of grant funds.

(a) This competitive grant program will provide funding directly to fire departments of a State for the purpose of enhancing the department's ability to protect the health and safety of the public, as well as that of firefighting personnel, facing fire and fire-related hazards. In order to achieve this stated intent we invite fire departments to apply for assistance in any one (1) of the four (4) program areas described in paragraphs (a)(1) through (4) of this section.

(1) *Fire Operations and Firefighter Safety Program.* Appropriate activities under this program area include: Training, Wellness and Fitness, Firefighting Equipment and Personal Protective Equipment. Applicants can apply for as many related activities under this function as necessary.

(i) *Training Activities:* (A) Training firefighting personnel in fire-fighting, emergency response, supervision and safety, arson prevention and detection, handling of hazardous materials, or training firefighting personnel to provide training in any of these areas. Eligible uses of training funds include but are not limited to purchase of training curricula, training equipment and props including trailers, training services, attendance at formal training forums, etc. Tow vehicles or other means

of transport may be eligible as a transportation expense if adequately justified in the proposal, but transportation expenses will be limited to \$6,000 per year. Compensation to volunteer firefighters for wages lost as a result of attending training under this program is an eligible expense if justified in the grant proposal. Overtime expenses paid to career firefighters to attend training, or overtime expenses paid to firefighters to cover for their colleagues while their colleagues are in training, is an eligible expense if justified in the grant proposal. Even though compensation is an eligible expense, proposals that contain such compensation expenses may be less favorable than similar proposals without compensation expenses due to the benefit/cost element in the evaluation process.

(B) Activities that are not eligible in this area include construction of facilities such as classrooms, buildings, towers, etc. Modifications to an existing facility are allowable if the modifications involve only minor renovation as defined herein (i.e., limited to minor interior alterations costing less than \$10,000).

(ii) *Wellness and Fitness Activities:* (A) Establishing and/or equipping wellness and fitness programs for firefighting personnel, including the procurement of medical services to ensure that the firefighting personnel are physically able to carry out their duties (purchase of medical equipment is not eligible under this activity). Expenses to carry out wellness and fitness activities that include costs such as personnel (i.e., health-care consultants, trainers, and nutritionists), physicals, equipment (including shipping), supplies, and other related contract services that are directly associated with the implementation of the proposed activity are eligible.

(B) Transportation expenses and fitness club memberships for the firefighters or their families would not be eligible under the wellness and fitness program. Other activities that are not eligible in this area include construction of facilities to house a fitness program such as exercise or fitness rooms, showers, etc. Modifications to an existing facility are allowable if the modifications involve only renovations as

defined herein (i.e., limited to minor interior alterations costing less than \$10,000).

(iii) *Firefighting Equipment Acquisition:* (A) Acquiring additional firefighting equipment, including equipment needed directly for fire suppression or to enhance the safety or effectiveness of firefighting or rescue activities. Compressor systems, cascade systems, or similar SCBA refill systems are eligible expenditures in this area as are individual communications and accountability systems. The cost of shipping equipment purchased under this program is also an eligible expense. Thermal imaging cameras are eligible but the number of cameras that can be purchased with grant funds will be limited based on the population served by the department applying for assistance. Departments that serve communities of less than 20,000 can purchase one thermal imaging camera with grant funds if awarded a grant; departments serving communities between 20,000 and 50,000 can purchase for two cameras with grant funds if awarded a grant; and, departments serving communities of over 50,000 can purchase three cameras with grant funds if awarded a grant. Portable radios and/or mobile communications equipment (including mobile repeaters) are eligible.

(B) Integrated communications systems (or parts thereof), such as computer-aided dispatch, towers, repeaters, etc., are not eligible under this activity. Vehicles, as defined herein, are not eligible under this activity.

(iv) *Personal Protective Equipment Acquisition:* (A) Acquiring personal protective equipment required for firefighting personnel as approved by the Occupational Safety and Health Administration, and other personal protective equipment for firefighting personnel to enhance their operational safety. Eligible personal protective equipment includes clothing such as “Turnout Gear” or “Bunker Gear” (including boots, pants, coats, gloves, hoods, goggles, vests, and helmets), self-contained breathing apparatus, spare cylinders, and personal alert safety systems.

(B) The purchase of three-quarter length rubber boots is an ineligible expenditure under this activity. Uniforms

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(formal/parade or station/duty) or uniform items (hats, badges, etc.) are also not eligible expenditures under this activity.

(2) *Fire Prevention Programs.* (i) Applicants can apply for as many related activities under this function as necessary. Appropriate activities in this program include: Public Education, Public Awareness, Enforcing Fire Codes, Inspector Certification, Purchase and Install Smoke Alarms, and Arson Prevention and Detection Activities. Eligible expenses to carry out these activities would include costs such as fire education safety trailer, personnel, transportation, equipment, supplies, and contracted services which are directly associated with the implementation of the proposed activity. Tow vehicles or other means of transport may be eligible as a transportation expense if adequately justified in the proposal, but transportation expenses will be limited to \$6,000 per year.

(ii) Construction is not eligible under this program. A safety village that is not transportable would be considered construction, and therefore, not eligible.

(3) *Emergency Medical Services Program.* (i) Applicants can apply for as many related activities under this function as necessary. Appropriate activities in this program are training (instructional costs (i.e., books, materials, equipment, supplies, and exam fees), certification/re-certification expenses, and continuing education programs) and equipment (defibrillators, basic and advanced life support equipment, universal precaution supplies (i.e., medical PPE) mobile and portable communication equipment, computers, expendable supplies, and infectious disease control and decontamination systems). Tow vehicles or other means of transport may be eligible as a transportation expense if adequately justified in the proposal, but transportation expenses will be limited to \$6,000 per year.

(ii) Not eligible in this program are vehicles such as ambulances, medications and integrated communication systems (or parts thereof), such as computer aided dispatch, towers, fixed repeaters, etc.

(4) *Firefighting Vehicles Program.* Eligible apparatus under this function includes, but is not limited to, pumpers, engines, brush trucks, tankers, rescue, ambulances, quints, aerials, foam units, and boats. Applicants may apply for only one vehicle under this program per year. Eligible expenses under this program would include the cost of the vehicle and associated equipment necessary to conform to applicable national standards. Due to their cost, aerials and quints have a lower benefit than pumpers, engines, tankers, and brush trucks. New, used or refurbished vehicles are eligible. Custom vehicles are eligible, but they may not be as favorably evaluated as a lower costing commercial vehicle. An allowance for transportation to inspect a vehicle under consideration or during a vehicle's production would be eligible if included in the grant proposal.

(b) *Other costs.* (1) Administrative costs are allowable under any of the program areas listed in paragraph (a)(1) through (4) of this section in accordance with OMB Circular A-87. (See 5 CFR 1510.3 for availability of OMB circulars.) Applicants may apply for administrative costs if the costs are directly related to the implementation of the program for which they are applying. Applicants must list their costs under the "other" category in their budget and explain what the costs are for in their project narrative. Examples of eligible administrative costs would be shipping, computers, office supplies, etc.

(2) Applicants that have an approved indirect cost rate may charge indirect costs to the grant if they submit the documentation that supports the rate to us. We will allow the rate to be applied as long as it is consistent with its established terms. For example, some indirect cost rates may not apply to capital procurements; in this case, indirect cost rates would not apply for a grant to purchase equipment or a vehicle.

(3) Some applicants with large awards may be required to undergo an audit in accordance with OMB Circular A-133, specifically, any recipient of Federal funding that spends in excess of \$300,000 of those funds in a year. The costs incurred for such an audit would

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be an expenditure that is eligible for reimbursement if included in the budget proposal.

(4) The panelists will review the applications that make it into the competitive range and judge each application on its own merits. The panelists will consider all expenses budgeted, including administrative and indirect, as part of the cost-benefit determination.

§ 152.2 Definitions.

Active firefighter is a member of a fire department or organization in good standing that is qualified to respond to and extinguish fires or perform other fire department emergency services and has actively participated in such activities during the past year.

Career department is a fire suppression agency or organization in which all active firefighters are assigned regular duty shifts and receive financial compensation for their services rendered on behalf of the department.

Combination department is a fire suppression agency or organization in which at least one active firefighter receives financial compensation for his/her services rendered on behalf of the department and at least one active firefighter does not receive financial compensation for his/her services rendered on behalf of the department other than life/health insurance, workmen's compensation insurance, length of service awards, pay per-call or per-hour, or similar token compensation.

Construction is the creation of a new structure or any modification of the footprint or profile of an existing structure. Changes or renovations to an existing structure that do not change the footprint or profile of the structure but exceed either \$10,000 or 50 percent of the value of the structure, are also considered construction. Changes that are less than \$10,000 and/or 50 percent of the value of the structure are considered renovations.

Direct delivery of training is training conducted within a training organization's own jurisdiction using the organization's own resources (trainers, facilities, equipment, etc.).

Fire department or fire department of a State is an agency or organization that has a "formally recognized arrangement" with a State, local or tribal au-

thority (city, county, parish, fire district, township, town, or other non-Federal governing body) to provide fire suppression, fire prevention and rescue services within a fixed geographical area.

(1) A fire department can apply for assistance for its emergency medical services unit provided the unit falls organizationally under the auspices of the fire department.

(2) Fire departments that are Federal, or contracted by the Federal government and whose sole responsibility is suppression of fires on Federal installations, are not eligible for this grant program. Fire departments or fire stations that are not independent but are part of, or controlled by a larger fire department or agency are typically not eligible. Fire departments that are for-profit departments (i.e., do not have specific non-profit status or are not municipally based) are not eligible to apply for assistance under this program. Also not eligible for this program are ambulance services, rescue squads, auxiliaries, dive teams, urban search and rescue teams, fire service organizations or associations, and State/local agencies such as a forest service, fire marshal, hospitals, and training offices.

Firefighter see the definition of *Active firefighter* in this section.

First-due response area is a geographical area in proximity to a fire or rescue facility and normally served by the personnel and apparatus from that facility in the event of a fire or other emergency as the first responders.

Formally recognized arrangement is an agreement between the fire department and a local jurisdiction such that the jurisdiction has publicly deemed that the fire department has the first-response responsibilities within a fixed geographical area of the jurisdiction. Often this agreement is recognized or reported to the appropriate State entity with cognizance over fire department such as registration with the State Fire Marshal's office or the agreement is specifically contained in the fire department's or jurisdiction's charter.

Integrated communication systems and devices are equipment or systems for

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dispatch centers or communication infrastructure. Examples of these include 911 systems, computer-aided dispatch systems, global positioning systems, towers, fixed repeaters, etc.

New mission is a first-responder function that a department has never delivered in the past or that was once delivered but has since been abandoned by the department due to the lack of funding or community support. Examples include technical search and rescue, emergency medical services, hazardous materials response, etc. A new mission does not include services already provided from existing facilities. Opening additional stations to provide similar services would be considered an expansion of existing services.

Population means permanent residents in the first-due response area or jurisdiction served by the applicant. It does not include seasonal population or any population in area that the fire department responds to under mutual/automatic aid agreements.

Prop is something that can be held up in a classroom or moved from site to site in order to facilitate or enhance the training experience. A training tower (pre-fabricated or constructed) is not a prop.

Renovation means changes or alterations or modifications to an existing structure that do not exceed either \$10,000 or 50 percent of the value of the structure and do not involve a change in the footprint or profile of the structure.

State means any of the fifty States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Supplies means any expendable property that typically has a one-time use limit and an expectation of being replaced within one year.

Vehicle is a mechanized device used for carrying passengers, goods, or equipment. Examples of vehicles include, but are not limited to: pumpers, brush trucks, tankers, tenders, attack pumpers, rescue (transport and non-transport), ambulances, foam units, quints, aerials, ladders, towers, hazmat vehicles, squads, crash rescue (ARFF), boats, hovercraft, planes, and helicopters.

Volunteer Department is a fire suppression agency or organization in which no active firefighters are considered full-time employees, and which no members receive financial compensation for their services rendered on behalf of the department other than life/health insurance, workers' compensation insurance, length of service awards, pay per-call or per-hour, or similar token compensation.

§ 152.3 Availability of funds.

(a) Fire departments that have received funding under the Assistance to Firefighter Grant Program in previous years are eligible to apply for funding in the current year. No applicant can receive more than \$750,000 in Federal grant funds under this program in any fiscal year. The awards made under the Assistance to Firefighter Grant Program are for one year only. The period of performance will be detailed in the award documents provided each grantee.

(b) The scoring of the applications will determine the distribution of the funding among the eligible programs. Notwithstanding anything in this part, no more than 25 percent of the grant funds shall be used to assist recipients to purchase firefighting vehicles and not less than 5 percent of all funds appropriated for firefighter assistance shall be available for fire prevention programs.

(c) We will not provide assistance under this part for activities for which another Federal agency has more specific or primary authority to provide assistance for the same purpose. We may disallow or recoup amounts that fall within other Federal agency's authority.

§ 152.4 Roles and responsibilities.

(a) Applicants must:

- (1) Complete the application and certify to the accuracy of the application;
- (2) Certify that they are an eligible applicant, i.e., a fire department, as defined in this rule;
- (3) Certify as to the characteristics of their community, i.e., urban, suburban, or rural;
- (4) Certify to the size of the population of the community served; and,

(5) Certify to the type of department, i.e., volunteer/combination or career.

(b) Recipients (Grantees) must agree to:

(1) Share in the costs of the projects funded under this grant program. Fire departments in areas serving populations over 50,000 must agree to match the Federal grant funds with an amount of non-Federal funds equal to 30 percent (30%) of the total project cost. Fire departments serving areas with a population of 50,000 or less will have to match the Federal grant funds with an amount of non-Federal funds equal to 10 percent (10%) of the total project cost. All cost-share contributions must be cash. No “in-kind” contributions will be considered for the statutorily required cost-share. No waivers of this requirement will be granted except for fire departments of Insular Areas as provided for in 48 U.S.C. 1469a.

(2) Maintain operating expenditures in the areas funded by this grant activity at a level equal to or greater than the average of their operating expenditures in the two years preceding the year in which this assistance is received.

(3) Retain grant files and supporting documentation for three years after the conclusion of the grant.

(4) Report to FEMA on the progress made on the grant and financial status of the grant.

(5) Make their grant files, books and records available if requested for an audit to ensure compliance with any requirement of the grant program.

(6) Provide information to the U.S. Fire Administration (USFA) national fire incident reporting system (NFIRS) for the period covered by the assistance. If a grantee does not currently participate in the incident reporting system and does not have the capacity to report at the time of the award, that grantee must agree to provide information to the system for a twelve-month period commencing as soon as they develop the capacity to report.

(c) *FEMA activities:* (1) We will ensure that the funds are awarded based on the priorities and expected benefits articulated in the statute, this part 152, and USFA’s strategic plan. USFA’s operational and performance objectives

of its strategic plan are to reduce losses of life and reduce economic losses due to fire and related emergencies. Specific target groups are children under 14 years old, seniors over 65 years old, and firefighters.

(2) We will ensure that not more than twenty-five percent (25%) of the appropriated funding will be used to purchase firefighting vehicles.

(3) We will ensure that not less than five percent (5%) of the appropriated funds are made available to national, State, local, or community organizations, including fire departments, for the purpose of carrying out fire prevention programs.

(4) We will ensure that fire departments with volunteer staff, or staff comprised of a combination of career fire fighters and volunteers, receive a proportion of the total grant funding that is not less than the proportion of the United States population that those firefighting departments protect.

(5) We will ensure that grants are made to fire departments located in urban, suburban, and rural communities.

(6) We will strive to ensure geographic diversity of awards as stipulated in §152.6.

§ 152.5 Review process and evaluation criteria.

(a) We will use the narratives/supplemental information provided by the applicants in their grant applications to evaluate, on a competitive basis, the merits and benefits of each request for funding. In selecting applications for award, we will evaluate each application for assistance independently based on established eligibility criteria, the program priorities, the financial needs of the applicant, and an analysis of the benefits that would result from the grant award. Every application will be evaluated based on the answers to the activity-specific questions during our initial screening. The applications that are determined to best address the Assistance to Firefighters Grant Program’s established priorities during this initial screening will be in the “competitive range” and subject to a second level of review.

(b)(1) In order to be successful at this level of the evaluation, an applicant

must complete the narrative section of the application package. The narrative should include a detailed description of the planned activities and uses for the grant funds including details of each budget line item. For example, if personnel costs are included in the budget, please provide a break down of what those costs are for. The narrative should explain why the grant funds are needed and why the department has not been able to obtain funding for the planned activities on its own. A discussion of financial need should include a discussion of any Federal funding received for similar activities. Finally, the applicant's narrative will detail the benefits the department or community will realize as a result of the grant award.

(2) Applicants may seek assistance in formulating their cost-benefit statement or any other justification required by the application by contacting our Grant Program Technical Assistance Center at 866-274-0960 or by email at USFAGRANTS@fema.gov. We will also place information to assist you in the development of a competitive grant application on the FEMA/USFA websites.

(c) This second level of review will be conducted using a panel of technical evaluation panelists that assess the application's merits with respect to the clarity and detail provided in the narrative about the project, the applicant's financial need, and the project's purported benefit to be derived from the cost. The technical evaluation panelists will independently score each application before them and then discuss the merits/shortcomings of the application in an effort to reconcile any major discrepancies. A consensus on the score is not required. The highest scoring applications will then be considered for award. We seek to maximize the benefits derived from the funding by crediting applicants with the greatest financial need and whose proposed activities provide the greatest benefit.

(d) In addition to the project narrative, the applicant must provide an itemized budget detailing the use of the grant funds. If an applicant is seeking funds in more than one eligible activity within a program, separate budgets will have to be generated for each

activity and then an overall or summary budget would have to be generated. For those applicants applying on line, the summary budget will be automatically generated by the e-grant system.

(e) Specific rating criteria for each of the eligible programs follow in paragraphs (e)(1) through (4) of this section. These rating criteria will provide an understanding of the grant program's priorities and the expected cost effectiveness of any proposed projects.

(1) *Fire Operations and Firefighter Safety Program*—(i) *Training Activities*. We believe that more benefit is derived from the direct delivery of training than from the purchase of training materials, equipment or props. Therefore, applications focused on direct delivery of training will receive a higher competitive rating. We also believe that funding of basic firefighting training to an operational level (i.e., training in basic firefighting duties or operating fire apparatus) has greater cost-benefit than funding of officer training. Likewise, we feel there is a greater cost-benefit to officer training than for other specialized training. Train-the-trainer activities are rated high due to the obvious return on investment. We will also accord higher rating to programs achieving benefits from statutorily required training over non-mandatory or strictly voluntary training. Finally, we will rate more highly those programs that benefit the highest percentage of targeted personnel within a fire department. Training designated for Rapid Intervention Teams will have a slightly higher competitive advantage.

(ii) *Wellness and Fitness Activities*. We believe that in order to have an effective wellness/fitness program, fire departments must offer both an entry physical examination and an immunization program. Accordingly, applicants in this category must currently offer both benefits, or must propose to initiate both a physical examination and an immunization program with these grant funds in order to receive additional consideration for funding this activity. We believe the greatest benefit will be realized by supporting new wellness and fitness programs, and

therefore, we will accord higher competitive ratings to those applicants lacking wellness/fitness programs over those applicants that already possess a wellness/fitness program. We believe that programs with annual physicals and general health screening provide high benefits and programs with incident rehabilitation, formal fitness regimens, and/or injury prevention components offer significant benefits. Finally, since participation is critical to achieving any benefits from a wellness or fitness program, we will give higher competitive rating to departments whose wellness and fitness programs mandate participation as well as programs that provide incentives for participation.

(iii) *Firefighting Equipment Acquisition.* We believe that this grant program will achieve the greatest benefits if we provide funds to fire departments purchasing basic firefighting equipment. We will afford departments buying basic firefighting equipment for the first time (equipment never owned before) a higher competitive rating than departments buying replacement equipment or equipment that will be used to expand the department's capabilities into new mission areas. We believe there is more benefit realized to bring a department up to the applicable minimum standard (i.e., as required by statute, regulation, or professional firefighting guidance), rather than to the department that is replacing equipment or enhancing capabilities. Because of the obvious benefits, we will also give higher competitive rating to departments that are mainly purchasing equipment designed to protect the safety of the firefighters. Equipment designated for Rapid Intervention Teams will have a slightly higher competitive advantage.

(iv) *Personal Protective Equipment Acquisition.* One of the stated purposes of this grant program is to protect the health and safety of firefighters. In order to achieve this goal and maximize the benefit to the firefighting community, we believe that we must fund those applicants needing to provide personal protective equipment (PPE) to a high percentage of their personnel. Accordingly, we will give a high competitive rating in this cat-

egory to fire departments in which a large percentage of their active firefighting staff do not have any personal protective equipment and to departments that wish to purchase enough PPE to equip one hundred percent (100%) of their active firefighting staff. The goal is to provide all active firefighters with a complete set of equipment, breathing apparatus as well as turnout gear. We will also give a higher competitive rating to departments that are purchasing the equipment for the first time as opposed to departments replacing obsolete or substandard equipment (e.g., equipment that does not meet current National Fire Protection Association (NFPA) and Occupational Safety and Health Administration (OSHA) standards), or purchasing equipment for a new mission. Departments that are replacing used gear that is very old, will be afforded a higher competitive rating than a department whose gear is relatively new. We will provide a higher competitive rating to departments requesting integrated Personal Accountability Safety System (PASS) devices than to those departments that are requesting non-integrated PASS devices. We also believe it is more cost beneficial to fund departments that have a high volume of responses per year before funding less active departments. Equipment designated for Rapid Intervention Teams will have a slightly higher competitive advantage.

(2) *Fire Prevention Program.* We believe that the public as a whole will receive the greatest benefit by creating new fire prevention programs.

(i) Our priority is to target these funds to fire departments that do not have an existing fire prevention program as opposed to those departments that already have such a program. Also, we believe the public will benefit greatly from establishing fire prevention programs that will continue beyond the grant year as opposed to limited efforts. Therefore, we will give a higher competitive rating to programs that will be self-sustaining after the grant period.

(ii) Because of the benefits to be attained, we will give a higher competitive rating to programs that target one or more of USFA's identified high-risk

populations (i.e., children under fourteen years of age, seniors over sixty-five and firefighters), and programs whose impact is/will be periodically evaluated.

(iii) We believe that public education programs, programs that develop and enforce fire codes and standards, and arson prevention and detection programs have a high benefit, therefore, they will receive the highest competitive rating.

(iv) We also believe programs that purchase and install residential and public detection and suppression systems provide significant benefits.

(v) Programs that are limited to the purchase of public information materials and presentation aids and equipment achieve the least benefit, therefore, these types of activities will receive a lower competitive rating.

(3) *Emergency Medical Services Program.* Our overall objective in this program is to elevate all emergency medical services to an intermediate life-support level (i.e., EMT-D or EMT-I).

(i) We believe that enhancing or expanding an existing service that currently meets basic life-support to an intermediate life-support system would realize the most benefit. We will give a higher competitive rating to fire departments that are planning on acquiring an intermediate life-support system than to those that wish to reach a basic life-support level.

(ii) We also believe that it is more cost effective to expand an existing service than it would be to create a new service. Therefore, we will give a higher competitive rating for fire departments that are enhancing their existing service over those that do not have an emergency medical service.

(iii) While we support CPR and first-responder level training, we will afford a lower priority to train firefighters in basic emergency medical technology (EMT-B) certification levels. We do not believe that it is our mission to create emergency medical services in areas where the local authorities have not yet committed to providing such services.

(4) *Firefighting Vehicle Program.* (i) We believe that more benefit will be realized by funding fire departments that own few or no firefighting apparatus

than by providing funding to a department with numerous vehicles. Therefore, we will give a higher competitive rating in the apparatus category to fire departments that own few or no firefighting vehicles. We will also give higher competitive rating to departments that have not recently purchased a new firefighting vehicle, and departments that wish to replace an old, high-mileage vehicle or a vehicle that has sustained a high number of responses.

(ii) Because of the significant cost of certain types of apparatus and the limited amount of funding available in this program, we do not believe that it would be cost effective to fund vehicles with ladder or aerial apparatus. Therefore, we will lower the competitive rating of applications proposing such purchases.

(iii) Vehicles that are for basic firefighting operations (i.e., pumpers, tankers, and brush trucks) are considered to have higher benefits than vehicles that have limited or specialized uses.

(iv) We believe that more benefit will accrue to a community that needs a new vehicle (i.e., the initial purchase of a new or used vehicle) than for communities that need to replace a vehicle that does not conform to applicable standards. Replacing a vehicle has more benefit than purchasing a vehicle to expand the operational capacity of a department into a new mission area.

(v) While no competitive advantage has been assigned to the purchase of commercial vehicles versus custom vehicles, or used vehicles versus new vehicles in the preliminary evaluation of applications, it has been our experience that depending on the type and size of department, the technical evaluation panelists often prefer low-cost vehicles when evaluating the cost/benefit section of the project narratives. Panelists will be provided with guidance (such as the General Services Administration's price schedules) for use in their evaluation on the reasonableness of vehicle costs.

(vi) Finally, we believe that it would be more beneficial to the nation if we gave these vehicle awards to as many fire departments as possible, therefore,

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we will allow each fire department to apply for only one vehicle per year.

§ 152.6 Application review and award process.

(a) As stated in §152.5, we will evaluate each application in the preliminary screening process to determine which applications best address the program's established priorities. The best applications as determined in this preliminary step will be deemed to be in the "competitive range." All applications in the competitive range will be subject to a second level review by a technical evaluation panel. Using the evaluation criteria delineated in §152.5, the panelists will score each application they evaluate. The assigned score will reflect the degree to which the applicant: clearly relates their proposed project; demonstrates financial need; and, details a high benefit to cost value of the proposed activities.

(b) Our award decisions will be based on the stated priorities of the grant program, the demonstrated need of the applicant, and the benefits to be derived from the proposed projects. We will make awards on a competitive basis, i.e., we will fund the highest scored applications before considering lower scored applications.

(c) In order to fulfill our obligations under the law, we may also make funding decisions using rank order as the preliminary basis then based on the type of fire department (paid, volunteer, or combination fire departments), the size and character of the community it serves (urban, suburban, or rural), and the geographic location of the fire department. In these instances where we are making decisions based on geographic location, we will use States as the basic geographic unit.

§ 152.7 Grant payment, reporting and other requirements.

(a) Grantees will have twelve months to incur obligations to fulfill their responsibilities under this grant program. The performance period of each grant will be detailed in the Articles of Agreement that we provide each grantee. Grantees may request funds from us as reimbursement for expenditures made under the grant program or they may request funds for immediate cash

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needs under FEMA regulations (44 CFR 13.21).

(b) Generally, fire departments should not use grant funds to pay for products and services contracted for, or purchased prior to the effective date of the grant. However, we will consider requests for reimbursement for these on an exceptional basis. Expenses incurred after the application deadline but prior to award may be eligible for reimbursement if the expenses were justified, unavoidable, consistent with the scope of work, and specifically approved by us.

(c) The recipients of funding under this program must report to us on how the grant funding was used and the benefits that resulted from the grant. This will be accomplished via submission of a final report. Details regarding the reporting requirements will be provided in the Articles of Agreement provided to each grantee. Additionally, fire departments that receive funding under this program must agree to provide information to the national fire incident reporting system (NFIRS) for the period covered by the assistance. If a grantee does not currently participate in the incident reporting system and does not have the capacity to report at the time of the award, that grantee must agree to provide information to the system for a twelve-month period commencing as soon as they develop the capacity to report.

§ 152.8 Application submission and deadline.

For each year that this program is authorized after fiscal year 2002, we will announce the grants availability via Notice of Funds Availability. That notice will contain all pertinent information concerning the eligible funding activities, priority funding levels (as appropriate), application period, timelines, and deadlines.

§ 152.9 Technical or procedural error.

(a) We will review our decision with respect to a particular application only where the applicant alleges that we have made a material technical or procedural error and can substantiate

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such allegation. Requests for reconsideration based upon technical or procedural error should be directed to: Director, Grants Program Office, U.S. Fire Administration, FEMA, 500 C Street, SW., room 304, Washington, DC 20472.

(b) We must receive a request for reconsideration under paragraph (a) of this section within 60 days of the date of the notice of our decision.

(c) As grants are awarded on a competitive basis, in accordance with the

findings of an independent panel of experts, we will not entertain requests for reconsideration based upon the merits of an original application. Similarly, we will not consider new information provided after the submission of the original application. In the case of new information, we encourage applicants to incorporate said information into their applications for future grant cycles.

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